

**PLAINTIFF FIRST CITIZENS BANK AND TRUST COMPANY, INC.’S  
MOTION FOR SUMMARY JUDGMENT**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure and Local Rule 56.1, Plaintiff First Citizens Bank and Trust Company, Inc. (the “Bank”) moves for summary judgment on all counts of its Complaint on the grounds that no genuine issue of material fact exists and the Bank is entitled to judgment as a matter of law on all claims in the Bank’s Complaint. As detailed in the Bank’s Memorandum of Law in Support of its Motion for Summary Judgment, Defendants admitted each of the material allegations of the Bank’s Complaint and admit that they have no defense to the Bank’s claims. Thus, the Court should grant summary judgment to the Bank.

In support of its Motion, the Bank relies on:

- (1) all pleadings and discovery that will or have been filed in this action;
- (2) the accompanying Memorandum of Law in Support of the Bank's Motion for Summary Judgment and exhibits thereto; and
- (3) the accompanying Statement of Material Facts as to which There Is No Genuine Issue to be Tried.

For the reasons set forth herein, the Bank respectfully requests that the Court grant the Bank summary judgment.

Respectfully submitted, this 18th day of January, 2011.

**MORRIS, MANNING & MARTIN,  
LLP**

By: /s/ Lisa Wolgast

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*Attorneys for First Citizens Bank and  
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**LOCAL RULE 7.1D CERTIFICATION**

Counsel hereby certifies that the foregoing was prepared in Times New Roman, 14-point font, in accordance with Local Rule 5.1B.

By: /s/ Lisa Wolgast  
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